

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division**

**BAE SYSTEMS ORDNANCE
SYSTEMS, INC.**

Plaintiff,

V.

FLUOR FEDERAL SOLUTIONS, LLC

Defendant.

Civil Action No. 7:20-CV-00587-MFU-RSB

**FLUOR'S MOTION TO COMPEL BAE'S DISCOVERY RESPONSES
AND FOR ATTORNEYS' FEES**

Defendant Fluor Federal Solutions, LLC (“Fluor”) hereby moves this Honorable Court to Compel Plaintiff BAE Systems Ordnance Systems, Inc. (“BAE”) to respond to Fluor’s properly propounded discovery requests. Fluor also moves this Court for the attorneys’ fees and costs incurred by Fluor to prepare and argue this Motion to Compel, as authorized by Federal Rule of Civil Procedure 37(a)(5).¹

Fluor served BAE with its First Set of Interrogatories and First Set of Requests for Production of Documents on October 15, 2021. BAE's responses were due November 15, 2021. BAE remained silent for 26 days and then informed Fluor that it intended to stay discovery in this case. BAE then refused to respond to any of Fluor's requests on the basis of a yet-to-be-filed motion to stay discovery. Thus, without a Court order, BAE unilaterally imposed its own stay of discovery. Such conduct is prohibited by the Federal Rules of Civil Procedure.

¹ As directed by the Court, Fluor’s Motion to Compel addresses only BAE’s objection to Fluor’s discovery requests on the basis of its yet-to-be-filed Motion to Stay. Fluor reserves the right to address BAE’s objections and responses to its written discovery in a further Motion to Compel, if necessary.

Fluor's discovery requests are reasonable, relevant to the Parties' claims and defenses, and proportional to the needs of this litigation. BAE must respond to Fluor's proper discovery requests unless and until a Court orders otherwise.

For these reasons, and the reasons set forth in Fluor's Brief in Support of its Motion to Compel, Fluor respectfully requests that this Honorable Court grant this Motion to Compel and order BAE to respond to Fluor's discovery requests. Should the Court grant Fluor's Motion to Compel, Fed. R. Civ. P. 37(a)(5) authorizes this Court to award Fluor its reasonable attorneys' fees, unless the Court finds BAE's actions to be substantially justified.

No justification exists for BAE's untimely and unsupported decision to usurp the authority reserved to this Court to determine whether and when discovery may be stayed. Therefore, Fluor requests that this Honorable Court award Fluor the reasonable attorneys' fees and expenses incurred to prepare and argue this Motion to Compel.

Fluor respectfully requests that this Court order BAE to respond to Fluor's discovery requests by December 20, 2021, or within five (5) business days of issuance of the decision on this Motion, whichever is earlier. Fluor understands that oral argument on this Motion will take place at a hearing before Judge Ballou on December 15, 2021, at 4:00 pm EST.

Dated: December 3, 2021

Respectfully submitted,

s/Scott P. Fitzsimmons
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of December 2021, a copy of the foregoing was delivered via the CM/ECF system to the following:

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